

# University of Michigan Journal of Law Reform

---

Volume 51

---

2018

## Front Matter

Journal of Law Reform

Follow this and additional works at: <https://repository.law.umich.edu/mjlr>

---

### Recommended Citation

Journal of Law Reform, *Front Matter*, 51 U. MICH. J. L. REFORM (2018).

Available at: <https://repository.law.umich.edu/mjlr/vol51/iss2/6>

This Front Matter is brought to you for free and open access by the University of Michigan Journal of Law Reform at University of Michigan Law School Scholarship Repository. It has been accepted for inclusion in University of Michigan Journal of Law Reform by an authorized editor of University of Michigan Law School Scholarship Repository. For more information, please contact [mlaw.repository@umich.edu](mailto:mlaw.repository@umich.edu).

UNIVERSITY OF MICHIGAN

# JOURNAL *of* LAW REFORM

---

VOLUME 51 • ISSUE 2

WINTER 2018

UNIVERSITY OF MICHIGAN  
LAW SCHOOL  
ANN ARBOR, MICHIGAN



## Cite as: 51 U. MICH. J.L. REFORM \_\_\_\_ (2018)

Except where otherwise expressly provided, the author of each piece of scholarship in this issue has granted permission for copies of that scholarship to be made in whole or in part by nonprofit institutions for educational use, including distribution to students, provided that (i) copies are distributed at or below cost; (ii) copies identify the author, the *Journal*, the volume, the number of the first page, and the year of the publication; (iii) proper notice of copyright is affixed to each copy, attributing copyright to the author.

The *University of Michigan Journal of Law Reform* is published quarterly by students of the University of Michigan Law School. Printed by Joe Christensen, Inc., Lincoln, Nebraska 68521.

*The University of Michigan Journal of Law Reform*  
The University of Michigan Law Library  
801 Monroe Street  
Ann Arbor, MI 48109-1210  
jlr-business@umich.edu  
<http://www.mjlr.org/>

### PUBLICATION POLICY

The *Journal* seeks to improve the law and its administration by providing a forum for discussion that identifies contemporary issues for reform efforts, proposes concrete means to accomplish change, and evaluates the impact of law reform. As contributions to this discussion, the *Journal* also welcomes multidisciplinary and empirical work.

We encourage the submission of unsolicited manuscripts for publication via Scholastica or to [jlr-submissions@umich.edu](mailto:jlr-submissions@umich.edu). Articles should generally conform to *The Bluebook: A Uniform System of Citation* (20th ed. 2015) and *The Chicago Manual of Style* (16th ed. 2010).

Views expressed in the *Journal* are those of the authors and not necessarily those of the editorial staff.

### SUBSCRIPTIONS

The current subscription rate is \$40.00 domestic and \$45.00 foreign. All business inquiries should be made to [JLR-Business@umich.edu](mailto:JLR-Business@umich.edu). Subscribers should report the nonreceipt of copies within six months of the mailing date.

### INDIVIDUAL AND BACK ISSUES

Copies of individual issues from the current volume can be obtained directly from the *Journal* for \$15.00 each.

Back issues in complete sets, volumes, or single issues can be obtained from William S. Hein & Co., Inc., 2350 North Forest Road, Getzville, New York 14068—Telephone (716) 882-2600. The *Journal* is also available on microfilm through ProQuest, 300 North Zeeb Road, Ann Arbor, Michigan 48106-1346—Telephone (800) 521-0600. Back issues are also available in PDF format through HeinOnline at <http://heinonline.org>.

### INDEXES

The *Journal* is indexed in the Current Law Index, Index to Legal Periodicals, Legal Resource Index, and PAIS Bulletin.

ISSN 0033-1546

UNIVERSITY OF MICHIGAN

# JOURNAL of LAW REFORM

---

Editorial Board

Volume 51 • 2017–2018

*Editor-in-Chief*

ANNA GREVE

*Managing Editor*

MARGARET ABERNETHY

*Managing Executive Editor*

RICHARD BULLITT

*Managing Articles Editor*

SOOJIN CHA

*Managing Notes Editor*

MICHAEL DARLING

*Executive Editors*

JOSEPH HARTUNIAN

EMMA LANZON

KATE MANGAPORA

OMOTUNDE OKESANYA

DAVID SARACENO

*Article Editors*

AMANDA BLAU

JEFFREY GIANCANA

SYEDA HAIDER

MELISSA PETIT

JOSHUA ROTHENBERG

LUKE SCHUBERT

*Note Editors*

MATTHEW FAGAN

REGINA GILMOUR

ANNA JONES

SHELBY NACE

JOHANNAH WALKER

*Managing Symposium Editor*

BRENDAN HARVEY

*Managing Operations Editor*

LAUREN FLAMANG

*Managing Development Editor*

REBECCA WEIANT

*Symposium Editors*

VICTORIA CARDENAS

KAYLIE SPRINGER

SAMANTHA VOUTYRAS

*Comment Editors*

CRAIG STREIT

RACHEL TROUBA

DAMAYANTI DESAI

ANDREW DICKSON

BRIAN DOLLHOFF

JORDANNA ISHMAEL

*Contributing Editors*

ROBERT KENDALL

HANNAH MULLER

BRADLEY PRESANT

ERIC REITZ

MATTHEW ROWLEY

ALEXANDROS SOURIS

JOHN TREAT

CLAIRE VETTER

YI ZHOU

*Associate Editors*

CIARA M. DAVIS

BRANDI DOBBS

KELLY EHRENREICH

INGRID EICHER

JONATHAN GILMARTIN

JOAN HAYNER

NICHOLAS R. HAZEN

BLAIR HOTZ

EVAN JOHNSON

NICHOLAS KARP

AMANDA KENNER

EMILY J. KIM

B. GRAVES LEE

ROSS N. MACPHERSON

CHARLOTTE MCEWEN

MEREDITH MCPHAIL

KARA A. NASEEF

TREVOR N. PARKES

MICHAEL PERIATT

MARINA R. PINO

CHRISTOPHER POLLACK

HANNAH RUBASHKIN

NIKHIL A. SETHI

KYLE D. SMITH

LYMAN SPITZER

BENJAMIN TAYLOR

DEVIN ABNEY

ASHLYN E. ANGELL

JULIE AUST

MICHAEL BATTEN

LAUREN G. BAUMGARTNER

EMILY S. P. BAXTER

STEPHANIE A. BENJAMINI

ODELE BET-YONAN

MATTHEW BINDER

MONICA BROWNER

JOHN BUZZARD

AYLIN R. DALDAL

CAMILLE DANVERS

# UNIVERSITY OF MICHIGAN LAW SCHOOL

## *Administrative Officers*

Mark Schlissel, B.A., M.D., Ph.D., *President of the University*  
Paul E. Courant, B.A., M.A., Ph.D., *Interim Provost and Executive Vice President for Academic Affairs*  
Mark D. West, B.A., J.D., *Nippon Life Professor of Law, Dean*  
Alicia Davis, B.S., M.B.A., J.D., *Professor of Law, Associate Dean for Strategic Initiatives*  
Daniel Halberstam, B.A., J.D., *Eric Stein Collegiate Professor of Law, Associate Dean for Faculty and Research, Director of European Legal Studies Program*  
David Santacroce, B.A., J.D., LL.M., *Clinical Professor of Law, Associate Dean for Experiential Education*  
Gil Seinfeld, A.B., J.D., *Professor of Law, Associate Dean for Academic Programming*  
Michael Dubin, B.S., M.A., *Assistant Dean for Development and Alumni Relations*  
Theresa Kaiser-Jarvis, B.A., B.S.J., Ed.M, J.D., *Assistant Dean for International Affairs*  
Ramji Kaul, B.A., J.D., *Assistant Dean for Career Planning*  
Lindsey Stetson, B.A., J.D., *Assistant Dean for Financial Aid*  
Sarah C. Zearfoss, A.B., J.D., *Senior Assistant Dean for Admissions, Financial Aid, and Career Planning*

## *Professors Emeriti of Law*

Layman E. Allen, A.B., M.P.A., LL.B.	Sallyanne Payton, B.A., LL.B.,
David L. Chambers, A.B., LL.B.,	<i>William W. Cook Professor of Law</i>
<i>Wade H. McCree, Jr. Collegiate Professor of Law</i>	Margaret Jane Radin, A.B., M.F.A., J.D., LL.D.,
Edward H. Cooper, A.B., LL.B.,	<i>Henry King Ransom Professor of Law</i>
<i>Thomas M. Cooley Professor of Law</i>	John W. Reed, A.B., LL.B., LL.M., Jur.Sc.D., LL.D.,
Donald N. Duquette, B.A., J.D.	<i>Thomas M. Cooley Professor of Law</i>
<i>Clinical Professor of Law</i>	Terrance Sandalow, A.B., J.D.,
Philip M. Frost, B.A., J.D.	<i>Edson R. Sunderland Professor of Law</i>
<i>Clinical Professor of Law</i>	E. Philip Soper, B.A., M.A., J.D., Ph.D.,
Whitmore Gray, A.B., J.D., LL.D.	<i>James V. Campbell Professor of Law</i>
Thomas A. Green, B.A., Ph.D., J.D.,	Theodore J. St. Antoine, A.B., J.D.,
<i>John Philip Dawson Collegiate Professor of Law</i>	<i>James E. and Sarah A. Degan Professor of Law</i>
Jerold H. Israel, B.B.A., LL.B.,	Joseph Vining, B.A., M.A., J.D.,
<i>Alene and Allan F. Smith Professor of Law</i>	<i>Harry Burns Hutchins Collegiate Professor of Law</i>
Charles W. Joiner, A.B., J.D.	Lawrence W. Waggoner, B.B.A., J.D., D.Phil.,
Douglas A. Kahn, B.A., J.D.,	<i>Lewis M. Simes Professor of Law</i>
<i>Paul G. Kauper Professor of Law</i>	Peter K. Westen, B.A., J.D.,
Yale Kamisar, A.B., LL.B., LL.D.,	<i>Frank G. Millard Professor of Law</i>
<i>Clarence Darrow Distinguished University Professor of Law</i>	James Boyd White, A.B., A.M., LL.B.,
Thomas E. Kauper, A.B., J.D.,	<i>L. Hart Wright Collegiate Professor of Law</i>
<i>Henry M. Butzel Professor of Law</i>	James J. White, B.A., J.D.,
Richard O. Lempert, A.B., J.D., Ph.D.,	<i>Robert A. Sullivan Professor of Law</i>
<i>Eric Stein Distinguished University Professor of Law and Sociology</i>	

## *Professors of Law*

Reuven S. Avi-Yonah, B.A., A.M., Ph.D., J.D.,	Richard D. Friedman, B.A., J.D., D.Phil.,
<i>Irwin I. Cohn Professor of Law</i>	<i>Alene and Allan F. Smith Professor of Law</i>
Samuel Bagenstos, B.A., J.D.	Bruce W. Frier, B.A., Ph.D.,
<i>Frank G. Millard Professor of Law</i>	<i>John and Teresa D'Arms Distinguished University Professor of Classics and Roman Law</i>
Nicholas Bagley, B.A., J.D.	Samuel R. Gross, A.B., J.D.,
Michael S. Barr, B.A., M.Phil., J.D.	<i>Thomas G. and Mabel Long Professor of Law</i>
<i>Roy F. and Jean Humphrey Proffitt Professor of Law</i>	Monica R. Hakimi, B.A., J.D.
Laura N. Beny, B.A., M.A., J.D., Ph.D.	Daniel Halberstam, B.A., J.D.
Evan H. Caminker, B.A., J.D.	<i>Eric Stein Collegiate Professor of Law</i>
<i>Branch Rickey Collegiate Professor of Law</i>	James C. Hathaway, LL.B., LL.M., J.S.D.,
Sherman J. Clark, B.S., J.D.	<i>James E. and Sarah A. Degan Professor of Law</i>
<i>Kirkland and Ellis Professor of Law</i>	Scott Hershovitz, A.B., M.A., D.Phil., J.D.
Daniel Crane, B.A., J.D.	Donald J. Herzog, A.B., A.M., Ph.D.,
<i>Frederick Paul Furth, Sr. Professor of Law</i>	<i>Edson R. Sunderland Professor of Law</i>
Steven P. Croley, A.B., J.D., M.A., Ph.D.	James Hines Jr., B.A., M.A., Ph.D.,
<i>Harry Burns Hutchins Collegiate Professor of Law</i>	<i>L. Hart Wright Collegiate Professor of Law</i>
Kristina Daugirdas, A.B., J.D.	Nicholas C. Howson, B.A., J.D.
Rebecca S. Eisenberg, B.A., J.D.,	Ellen D. Katz, B.A., J.D.
<i>Robert and Barbara Luciano Professor of Law</i>	<i>Ralph W. Aigler Professor of Law</i>
Phoebe C. Ellsworth, A.B., Ph.D.,	Vikramaditya S. Khanna, B.C.A., LL.B., S.J.D.
<i>Frank Murphy Distinguished Professor of Law and Psychology</i>	<i>William W. Cook Professor of Law</i>
	James E. Krier, B.S., J.D.,
	<i>Earl Warren DeLano Professor of Law</i>

Jessica D. Litman, B.A., M.F.A., J.D.,  
*John F. Nickoll Professor of Law*  
 Kyle D. Logue, B.A., J.D.,  
*Wade H. and Dores M. McCree Collegiate  
 Professor of Law*  
 Catharine A. MacKinnon, B.A., J.D., Ph.D.,  
*Elizabeth A. Long Professor of Law*  
 Nina A. Mendelson, A.B., J.D.  
*Joseph L. Sax Collegiate Professor of Law*  
 William I. Miller, B.A., Ph.D., J.D.,  
*Thomas G. Long Professor of Law*  
 Julian Davis Mortenson, A.B., J.D.  
 William Novak, B.A., M.A., Ph.D.  
*Charles F. and Edith J. Clyne Professor of Law*  
 John A.E. Pottow, A.B., J.D.  
*John Philip Dawson Collegiate Professor of Law*  
 James J. Prescott, B.A., J.D., Ph.D.  
 Eve Brensike Primus, B.A., J.D.  
 Richard A. Primus, A.B., D.Phil., J.D.  
*Theodore J. St. Antoine Collegiate Professor of  
 Law*

Adam C. Pritchard, B.A., M.P.P., J.D.  
*Frances and George Skestos Professor of Law*  
 Steven R. Ratner, A.B., M.A., J.D.,  
*Bruno Simma Collegiate Professor of Law*  
 Donald H. Regan, A.B., LL.B., B.Phil., Ph.D.,  
*William W. Bishop, Jr. Collegiate Professor of Law*  
 Mathias W. Reimann, Dr.Iur., LL.M.,  
*Hessel E. Yntema Professor of Law*  
 Veronica Santarosa, LL.B., B.A., M.A., LL.M., Ph.D.  
 Margo Schlanger, B.A., J.D.  
*Henry M. Butzel Professor of Law*  
 Carl E. Schneider, A.B., J.D.,  
*Chauncey Stillman Professorship for Ethics, Morality,  
 and the Practice of Law*  
 Rebecca J. Scott, A.B., M.Phil., Ph.D.,  
*Charles Gibson Distinguished University Professor of  
 History*  
 Bruno Simma, Doctorate of Law  
 Sonja B. Starr, A.B., J.D.  
 Christina B. Whitman, A.B., M.A., J.D.,  
*Francis A. Allen Collegiate Professor of Law*

#### *Assistant Professors of Law*

Kate Andrias, B.A., J.D.  
 Maureen Carroll, B.S., J.D.  
 Nicolas Cornell, A.B, Ph.D., J.D.

Gabriel Mendlow, A.B., Ph.D., J.D.  
 W. Nicholson Price, II, A.B., J.D., Ph.D.  
 Gabriel Rauterberg, B.S., J.D.

#### *Clinical Professors of Law*

Alicia Alvarez, B.A., J.D.  
 Nicole Appleberry, A.B., J.D., LL.M.  
 Edward R. Becker, B.A., J.D.  
 Howard Bromberg, B.A., J.D., J.S.M.  
 Bridgette Carr, B.A., J.D.  
 Debra Chopp, B.A., J.D.  
 David A. Moran, B.S., B.A., M.A., M.S., J.D.  
 Mark K. Osbeck, A.B., M.A., J.D.

Paul D. Reingold, B.A., J.D.  
 Nicholas J. Rine, B.A., J.D.  
 Vivek Sankaran, B.A., J.D.  
 Suelyn Scarnecchia, B.A., J.D.  
 Kimberly A. Thomas, B.S., J.D.  
 Dana Thompson, B.S., J.D.  
 Frank E. Vandervort, B.A., J.D.

#### *Clinical Assistant Professors of Law*

Matthew Andres, B.A., J.D.  
 Patrick Barry, B.A., J.D., Ph.D.  
 Michael Bloom, B.A., J.D.  
 Elizabeth Campbell, B.A., J.D.  
 Paul H. Falon, B.A., M.A., J.D.  
 Steve Gray, B.A., J.D.  
 David Guenther, B.A., M.A., J.D.  
 Margaret Hannon, B.A., J.D.

Joshua Kay, B.A., M.A., Ph.D., J.D.  
 Sammy Mansour, B.A., J.D.  
 Timothy Pinto, B.A., J.D.  
 Amy Sankaran, B.A., J.D.  
 Imran Syed, A.B., J.D.  
 Nancy Vettorello, B.A., M.U.P., J.D.  
 Nancy Wang, B.S.E., J.D.  
 Beth H. Wilensky, B.A., J.D.

#### *Professors from Practice*

J. Phillip Adams, B.A., J.D., LL.M.  
 Timothy L. Dickinson, B.A., J.D., LL.M.  
 Robert Hirshon, B.A., J.D.  
*Frank G. Millard Professor from  
 Practice*  
 Barbara McQuade, B.A., J.D.

Leonard Niehoff, A.B., J.D.  
 David Uhlmann, B.A., J.D.,  
*Jeffrey F. Liss Faculty Development Professor  
 from Practice, Director of Environmental Law and  
 Policy Program*

#### *William W. Cook Global Law Professors*

Susanne Baer, LL.M.  
 Paul Brand, B.A., M.A., D.Phil  
 Christine Chinkin, LL.B., LL.M., Ph.D.  
 John G. H. Hudson, M.A., D.Phil

Haw-Jin Kim, B.S., Dr. Jur., LL.M.  
 J. Christopher McCrudden, LL.B., LL.M., D.Phil  
 Anne Peters, LL.M.



UNIVERSITY OF MICHIGAN

# JOURNAL *of* LAW REFORM

---

VOLUME 51 • ISSUE 2

WINTER 2018

## CONTENTS

### ARTICLES

- “Declinations with Disgorgement” in FCPA Enforcement  
*Karen Woody* . . . . . 269
- Understanding Administrative Sanctioning as Corrective Justice  
*Eithan Y. Kidron*. . . . . 313
- Restoring a Willingness to Act: Identifying and Remediating the  
Harm to Authorized Employees Ignored Under *Hoffman Plastics*  
*Rita Trivedi* . . . . . 357

### NOTES

- The “Scourge” of Armed Check Fraud: A Constitutional Framework  
for Prohibited Possessor Laws  
*Jeffrey Giancana* . . . . . 409
- Why Guidance from the Supreme Court is Required in Redefining  
the Particular Social Group Definition in Refugee Law  
*Liliya Paraketsova*. . . . . 437